



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2020-0698; FRL-9215-02-R5]**

**Air Plan Approval; Wisconsin; Serious Plan Elements for the  
Wisconsin Portion of Chicago Nonattainment Area for the 2008  
Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Wisconsin State Implementation Plan (SIP) to meet the volatile organic compound (VOC) and nitrogen oxides (NO<sub>x</sub>) reasonably available control technology (RACT), clean-fuel vehicle programs (CFVP), and the enhanced monitoring of ozone and ozone precursors (EMP) requirements of the Clean Air Act (CAA). These requirements apply in the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment area (Chicago area) for the 2008 ozone National Ambient Air Quality Standards (NAAQS or standards). EPA proposed to approve this action on December 7, 2021, and received no comments.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2020-0698. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information is not publicly available,

i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Michael Leslie, Environmental Engineer at (312) 353-6680 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, [leslie.michael@epa.gov](mailto:leslie.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

## **I. Background Information.**

On December 7, 2021, EPA proposed to approve a revision to the Wisconsin SIP to meet the VOC and NO<sub>x</sub> RACT, CFVP, and the EMP requirements of the CAA in the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment area for the 2008 ozone NAAQS (86 FR 69207). An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's

reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on January 6, 2022. EPA received no comments on the proposal.

## **II. Final Action.**

EPA is approving revisions to Wisconsin's SIP pursuant to section 110 and part D of the CAA and EPA's regulations, because Wisconsin's December 1, 2020 nonattainment plan satisfies the serious requirements for the VOC and NO<sub>x</sub> RACT, the CFVP, and the EMP, in the Wisconsin portion of the Chicago serious nonattainment area for the 2008 ozone NAAQS.

## **III. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the

provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian

tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Nitrogen dioxide, Ozone, Particulate matter, Volatile organic  
compounds.

Dated: February 23, 2022.

Debra Shore,  
*Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.2585 is amended by adding paragraph (qq) to read as follows:

**§ 52.2585 Control Strategy: Ozone.**

\* \* \* \* \*

(qq) *Serious Plan Elements.* Approval - On December 1, 2020, Wisconsin submitted a revision to its State Implementation Plan to satisfy the meet the volatile organic compound (VOC) and nitrogen oxides (NO<sub>x</sub>) reasonably available control technology (RACT), Clean-fuel vehicle programs (CFVP), and the Enhanced monitoring of ozone and ozone precursors (EMP) requirements of the Clean Air Act (CAA) in the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment area (Chicago area) for the 2008 ozone National Ambient Air Quality Standards (NAAQS or standards). These elements of the plan meet the requirements of section 110 and part D of the CAA for the Wisconsin portion of the Chicago area, which serious nonattainment for the 2008 ozone NAAQS.

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